

**PLANNING COMMITTEE  
10 APRIL 2014**

*Present :-* Councillor Theresa Higgins (Chairman)  
Councillors Peter Chillingworth, Helen Chuah,  
Sonia Lewis, Michael Lilley, Jackie Maclean,  
Jon Manning, Philip Oxford and Laura Sykes  
*Substitute Member :-* Councillor Julie Young for Councillor Cyril Liddy

(\* Committee members who attended the formal site visit.)

**127. Councillor Steve Ford**

The Committee stood in silence for one minute as a mark of respect for Councillor Steve Ford who had died on 4 April 2014.

Councillor J. Young spoke about her memories of Councillor Ford who had been elected to the ward of Wivenhoe Quay in 2004 and was a long serving member of the Planning Committee.

**128. 131103 and 131105 - Stockwell Arms, 18 West Stockwell Street, Colchester**

**Councillor T Higgins (in respect of her knowledge of one of the objectors to the application) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.**

**Councillor Chuah here took the Chair.**

**Councillor Hayes (in respect of her acquaintance with one of the objectors to the application) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Lewis (in respect of her acquaintance with Graham Parker, the applicant's recently appointed agent) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Lilley (in respect of his Board membership of Colchester Borough Homes) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor L. Sykes (in respect of her Board membership of Colchester Borough Homes and her attendance at the premises at a Mayoral event) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the variation of conditions of planning

permission 112221 and a revised Listed Building application to consent 112222 both of which had been approved in February 2012. The Committee had before it a report and amendment sheet in which all the information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mark Russell, Principal Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations.

Christine Lavelle addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she was speaking on behalf of a number of residents of West Stockwell Street. She was concerned about the high number of breaches of the planning consent, in particular in relation to:

- Condition 5 which provided for the chiller unit to be positioned in the roof valley, the proposal to move the unit further back would mean it would still be visible to neighbouring residents;
- Condition 10 which provided for the roof lanterns, the existing lanterns were of modern design which was not sympathetic to the building and positioned higher than they should be which was not acceptable;
- The noise from the extractor fan was considered excessive and required a condition to ensure that it did not emit any noise;
- The roofing materials used were slates rather than tiles which create a glare which was not considered appropriate to the building;
- The change of use of the residential element of the building to restaurant use was also of concern;
- The height of the rear building was greater than it should be which obscured the outlook from her living room.

Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had been appointed by the applicant in October 2013 since which time he had met with Planning, Building Control and Environmental Health Officers from the Council in order to resolve all of the outstanding planning issues. Proposals to rectify the breaches had now been presented which the officers had considered satisfactory and a timescale for completion was set out. In relation to the replacement of the external paint with lime render, this would require the erection of scaffolding and the closure of the premises to the public and the implementation of a landscaping scheme would need to be undertaken at the appropriate seasonal opportunity. For this reason permission was sought for the deadline for completion to be 2015.

Councillor Hayes attended and, with the consent of the Chairman, addressed the Committee. She explained that she was in favour of conserving and enhancing listed buildings. She was of the view that the Committee should defend the residents in the light of the fact that the premises had been transformed into a modern gastro pub which had expanded the capacity of the building. She was concerned that it was possible to hear the sound of occupants using the stairs as well as the noise nuisance

caused by occupants using the garden area at the back of the building. It was important that a suitable landscape scheme was agreed and she was of the view that the breaches, in relation to the air cooling unit, the fire escape, the external wall treatment, the roof lanterns, the use of felt for the flat roof and the height of the rear building, should all be rectified in accordance with the original permission.

Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. He was of the view that there were so many things wrong in relation to the details of the original permission which had been reasonably imposed that the applicant should be required to adhere to them. It was acceptable for developers to request minor modifications to conditions on planning permissions but this applicant had not applied to do so but instead had just built whatever he wanted to. He acknowledged that a new agent had been brought in to address the breaches but that it had taken some while for agreed proposals to be forthcoming due to the complexity of the problems. He was particularly concerned about the need for a landscaping scheme to be agreed and he pointed out that it was never intended for the area at the rear to be used by customers as a smoking area as this was causing considerable nuisance for residents of neighbouring properties. He was also concerned that the proposed delay in replacing the external wall treatment with lime render would cause significant detriment to the fabric of the building. He was of the firm view that the work to rectify the breaches should all be completed before the end of 2014, not 2015.

The Planning Officers responded to the points raised as follows:

- It was for members of the Committee to determine whether they considered the replacement of the roof lanterns to be necessary and, if so, amend the recommendation;
- The noise level of 5dB(A) proposed for the extraction plant was in accordance with the standard in force at the time of the original permission. The standard had more recently been reduced to 0dB(A);
- The use of slate for the roof had been considered satisfactory by the Historic Buildings and Areas Officer as it had formed part of a proposal to provide a hipped roof away from nearby residents;
- The upstairs room closest to the neighbouring house was being retained as an office which meant that the room proposed to be changed to restaurant use would be further from the neighbour and an additional fire escape would not be required;
- The full imposition of Condition 20 would require the closure of the doors to the rear garden area, which would have implications in terms of emergency evacuation arrangements and a designated smoking area for customers, a matter which the Licensing Authority would be required to consider;
- The Historic Buildings and Areas Officer had confirmed her view that the delay in removal of the external wall treatment until 2015 would not result in additional harm to the building.

The Planning Officer also requested that the Committee expresses its views on the position of the opening to the bathroom window. A bottom hung window with 15 degree opening limitation was requested as opposed to the suggested side hung window..

The Committee acknowledged the work that had been done by the new agent to address a large number of the breaches, however, there was concern regarding the few remaining issues, including the position, noise and effectiveness of the extractor.

Members of the Committee were particularly concerned about the impact on local residents of customers using the area at the rear of the building as a smoking area but acknowledged that an alternative solution would be required otherwise customers may well congregate to the front of the building on a footway adjacent to a busy road junction. Comment was made about the access round the side of the building to the area at the back and the potential for an area at the side to be used as a designated smoking area for customers rather than the area at the rear.

*RESOLVED* (SEVEN voted FOR, ONE voted AGAINST and ONE ABSTAINED) that the application be approved, subject to the conditions set out in the report and in the amendment sheet and the following amendments:

- Condition 20 to be reworded to provide for the rear doors to be shut, or, subject to Building Control requirements, the submission of a scheme within a period of 28 days to adequately control customer access through the rear doors, such scheme to be subject to approval by the Head of Professional Services for implementation within a period of 70 days.
- Condition 5 to be reworded in relation to the bathroom / toilet window to provide for obscured glazing and a bottom opening restricted to 15 degrees.

**129. 131103 and 131105 Enforcement Report - Stockwell Arms, 18 West Stockwell Street, Colchester**

**Councillor T Higgins (in respect of her knowledge of the applicant) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination**

**Councillor Chuah (in respect of her acquaintance with one of the objectors to the application) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Lewis (in respect of her acquaintance with Graham Parker, the applicant's recently appointed agent) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5)**

**Councillor Lilley (in respect of his Board membership of Colchester Borough Homes) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor L. Sykes (in respect of her Board membership of Colchester Borough Homes and her attendance at the premises at a Mayoral event) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a report from the Head of Professional Services concerning the breaches of conditions at the Stockwell, West Stockwell Street and setting out the options for Planning enforcement which are available to the Council if matters are not resolved in respect of application numbers 131103 and 131105.

Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the imposition of enforcement measures. He was of the view that stringent conditions had been applied to the measures to resolve the breaches and he would be responsible to ensure that instructions were issued to institute the works agreed. The Committee could therefore be assured that the works would be completed as proposed.

Malcolm Inkster addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the imposition of enforcement measures. He explained that he was addressing the Committee on behalf of a number of residents who were in support of the principles to ensure that the breaches to conditions were not repeated. He considered that the matter had been a detriment to the residential amenity of the area and a waste of officer time. He felt a more demanding approach was essential in order to reassure residents and to ensure that the works would be completed. The most significant issue was in relation to Condition 20 as the existing arrangements were highly ineffective. He understood that the area at the front of the building had always been intended for use as a smoking area.

Councillor Hayes attended and, with the consent of the Chairman, addressed the Committee. She agreed with the views expressed by Mr Inkster. She was of the view that many complaints had been submitted already by residents and it was necessary that the Committee showed the applicant that the views of the residents were being listened to.

Mark Russell, Principal Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager assisted the Committee in its deliberations.

*RESOLVED* (UNANIMOUSLY) that a Notice be served for all the relevant time limited conditions pertaining to Planning permission 131103 and a Listed Building Enforcement Notice be served pertaining to issues covered by Listed Building application 131105 and the time for compliance for these matters shall equate to the time limits quoted on the proposed conditions in the Planning application report.

**Councillor T Higgins here resumed the Chair.**

**130. 140534 - Land adjacent to the Marks Tey Hotel, London Road, Marks Tey**

**Councillor Maclean (in respect of her knowledge of the applicant) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.**

The Committee considered an application for the variation of condition 2 of the

Planning permission for the continued use of land at London Road, Marks Tey for the operation of car boot sales which had been granted by the Committee in April 2013 for a period of one year from the date of the permission. The variation was to allow for one year's period of permission to commence from the date of the first car boot sale which operates under the new conditions. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report.

**131. 142134 - 25 John Kent Avenue, Colchester**

The Committee considered an application for the extension and associated alterations to create an additional detached dwelling at 25 John Kent Avenue, Colchester. The application had been referred to the Committee as the agent was a former employee of the Council. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report.

**132. 142131 - Haye Yard, Upper Haye Lane, Fingringhoe**

**Councillor Lilley (in respect of his acquaintance with the applicant) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the erection of a single dwelling in place of a mobile home, builder's yard and scrap yard at Upper Haye Lane, Fingringhoe. The application had been referred to the Committee due to the considerable level of public support toward the removal of the commercial uses on the site and an improvement to the appearance of the site if planning permission were to be granted for the proposed new dwelling. The Committee had before it a report and amendment sheet in which all the information was set out.

Simon Osborn, Planning Officer, presented the report and assisted the Committee in its deliberations.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the use of the site was unsightly but that it was lawful. The applicant accepted that the location of a mobile home on the site was unlawful but this was his only home. The applicant was prepared to relinquish the lawful use of the site in order to provide a home for himself and his family. He was of the view that the application would vastly enhance the environment and an incompatible use in the countryside would be removed. The applicant would need to sell the site as a going concern, in the form of a commercial

scrapyard, if he could not secure a home here. The proposal for the home was a modest one and the circumstances of the application were possibly unique. He understood why the officers had come to a view to recommend refusal and considered the report to be fair and balanced. There was considerable support for the application from the neighbours and he considered approval of the application would be the best solution for all concerned.

Councillor Sutton attended and, with the consent of the Chairman, addressed the Committee. He explained that he would usually be speaking in opposition to development outside the village envelope. He understood that the officer recommendation was for refusal as the application was not in accordance with the Council's Planning Policies. He confirmed that the Parish Council had indicated their view that the application should be approved. In terms of the concerns of the Highways Authority, he was of the view that these needed to be weighed in relation to if the site was operated to its full commercial potential. He asked the Committee to approve the application but with stringent conditions to ensure the land was adequately cleared prior to development taking place.

Members of the Committee understood the views set out in the report but voiced some support for the application, given the potential visual improvements achievable and the ability to remove the commercial use. It was considered that damage to the countryside of allowing the erection of a house would be negligible in comparison with a commercial scrapyard.. Councillors asked whether it would be possible to apply conditions to restrict the size of the dwelling, the ownership to the applicant in person and to remove future development rights.

The Planning Officers responded to the points raised as follows:

- The imposition of conditions about ownership and future development would be difficult to achieve if the principle of development was considered acceptable
- A draft Unilateral Undertaking / Planning Obligation had been submitted by the applicant's agent but it had yet to be considered by the Council's Legal Team
- The suggestion that the site could be used as a commercial scrapyard was not accurate as this would constitute a material change of use from the current lawful use of the site and would require planning permission. These statements were misleading and there was concern that the members of the Committee had given them too much weight in their considerations
- The use of the Delayed Decision Protocol would allow further information to be provided about the implications of a decision that would be a departure from the Development Plan

As the discussion suggested that the Committee may be minded to approve the application contrary to the officer's recommendation in the report, the Chairman proposed that the Delayed Decision Protocol be invoked. This would provide for a further report to be submitted to the Committee which would give details of the implications of approval of the application together with more information on the Unilateral Undertaking / Planning Obligation.

*RESOLVED* (UNANIMOUSLY) that the Delayed Decision Protocol be invoked and a

further report be submitted to the Committee which would give details of the implications of approval of the application together with more information on the Unilateral Undertaking / Planning Obligation.

### **133. 140208 - 82 Belle Vue Road, Wivenhoe**

The Committee considered an application for a 'The Committee had before it a report and amendment sheet in which all the information was set out.

Simon Osborn, Planning Officer, presented the report and assisted the Committee in its deliberations.

John Dixon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was addressing the Committee on behalf of a number of objectors. Belle Vue Road was a main arterial route, a long straight road with one sharp bend. The area was predominantly occupied by older semi-detached houses between which this application would create a mini estate, completely out of keeping with the area. He was of the view that knowledge of the application was not wide. His main objections were based on:

- The problem of the blind corner near the proposed access road, traffic due to the nearby school and the bus route;
- Access issues due to the blind corner;
- Traffic congestion and the fact that the development would exacerbate this;
- The nearby cemetery causing cars to be parked in the road
- The adequacy of the parking provision and the high density of the development.

In response to questions the Planning Officer explained that:

- The Highways Authority had recommended approval of the application;
- All properties met the minimum parking provision standard in terms of garages and additional spaces, some plots also had more than one additional space;
- Properties at the rear of the site had a tighter grouping but the two at the front had a larger layout and setting and all met or exceeded the minimum standards.

Councillor J Young expressed her view that Belle Vue Road regularly had considerable traffic flows due to the school and buses, she thought the proposal was out of keeping with the area as it created a mini estate in the middle of a residential street. She also referred to a similar application at Innisfree which had been refused.

Other members of the Committee were of the view that the proposal did meet all the Council's minimum standards and the application which had been refused at Innisfree was not sufficiently similar to draw comparison as it complied with the SPD on back land development which the application at Innisfree did not.

*RESOLVED* (SIX voted FOR and FOUR voted AGAINST) that the application be approved, subject to the conditions set out in the report and amendment sheet.



**134. 142439 - Valentinus Crescent, Colchester**

The Committee considered an application for the change of use to cemetery land together with associated works including boundary fencing, new planting, car parking with access from Colchester Crematorium of land at Valentinus Crescent. The application was subject to consideration by the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and amendment sheet in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report and in the amendment sheet.